

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

D'ARRIGO BROS. CO. OF NEW YORK, INC.,

Case No.:07 CV 3604 (LBS/DFE)

Plaintiff,

NOTICE OF MOTION

-against-

EDDIE SHORE INC. d/b/a BOTNICK PRODUCE,
DOUGLAS BOTNICK and STEPHEN BOTNICK,

Defendants.

Upon the application for Default Judgment of Leonard Kreinces, Esq., dated the 23rd day of July, 2007, the Affidavit in Support dated the 23rd day of July, 2007, the Clerk's Certificate of Default, and all pleadings heretofore had herein, the undersigned shall move this Court before the Honorable LEONARD B. SAND at the Courthouse located at 500 Pearl Street, New York, New York, on the 13th day of August, 2007 at 10:00 o'clock in the forenoon of that day, or as soon thereafter as counsel may be heard, for an Order granting the plaintiff a default judgment against the defendants, in the amount of TWENTY TWO THOUSAND NINE HUNDRED TWENTY-FIVE and 00/100 (\$22,925.00) DOLLARS based upon the defendants failure to appear in this action.

PLEASE TAKE FURTHER NOTICE, that answering affidavits, if any, are required to be served upon the undersigned at least seven (7) days prior to the return date of this motion.

Dated: Westbury, New York
July 23, 2007

Yours, etc.,

KREINCES & ROSENBERG, P.C.

By: _____
LEONARD KREINCES (LK6524)
Attorneys for Plaintiff
900 Merchants Concourse, Suite 305
Westbury, New York 11590
(516) 227-6500

TO:

EDDIE SHORE d/b/a
BOTNICK PRODUCE
10 Grant Street
So. River, New Jersey 08882

DOUGLAS BOTNICK
10 Grant Street
So. River, New Jersey 08882

STEPHEN BOTNICK
10 Grant Street
So. River, New Jersey 08882

Z:\kreinches1\WORK\HUNTSPOINT\DArrigo Bros\EddieShore\Default Jmt.Federal.NoAnswr.wpd

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

D'ARRIGO BROS. CO. OF NEW YORK, INC.,

Case No.: 07 CV 3604 (LBS/DFE)

Plaintiff,

-against-

**AFFIDAVIT OF LEONARD
KREINCES, ESQ.**

EDDIE SHORE INC. d/b/a BOTNICK PRODUCE,
DOUGLAS BOTNICK and STEPHEN BOTNICK,

Defendants.

STATE OF NEW YORK)
COUNTY OF NASSAU) ss.:

LEONARD KREINCES, ESQ., being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and am a member of the firm of KREINCES & ROSENBERG, P.C., attorneys for the plaintiff in the above-entitled action, and I am familiar with all the facts and circumstances in this action.

2. I make this affidavit pursuant to Rule 55.1 and 55.2(a) of the Civil Rules for the Southern District of New York, in support of the plaintiff's application for the entry of a judgment against the defendant, EDDIE SHORE INC. d/b/a BOTNICK PRODUCE, DOUGLAS BOTNICK and STEPHEN BOTNICK.

3. This is an action to recover the unpaid balance of TWENTY TWO THOUSAND NINE HUNDRED TWENTY-FIVE and 00/100 (\$22,925.00) DOLLARS, owed by the defendants, EDDIE SHORE INC. d/b/a BOTNICK PRODUCE, DOUGLAS BOTNICK and STEPHEN BOTNICK, to the plaintiff for the balance of unpaid perishable agricultural commodities. The original complaint is annexed hereto as Exhibit "A."

4. Jurisdiction of the subject matter of this action is based upon Federal question

jurisdiction. This action was commenced on May 7, 2007 by the filing of the Summons and Complaint. Thereafter an amended Summons and amended Complaint was filed with the Clerk of the Court and issued for service upon EDDIE SHORE INC. d/b/a BOTNICK PRODUCE, DOUGLAS BOTNICK and STEPHEN BOTNICK. That amended Summons and amended Complaint was served upon them on June 22, 2007. A copy of the amended Complaint is annexed hereto as Exhibit "B" while copies of the Affidavits of Service of the amended Complaint and amended Summons are annexed hereto as Exhibit "C".

5. This action seeks judgment for the liquidated amount of TWENTY TWO THOUSAND NINE HUNDRED TWENTY-FIVE and 00/100 (\$22,925.00) DOLLARS, plus interest from September 9, 2006 amount to ONE THOUSAND EIGHT HUNDRED FIFTY-SIX and 88/100 (\$1,856.88) DOLLARS plus costs of ONE HUNDRED NINETY and 00/100(\$190.00) DOLLARS, for a total as of TWENTY FOUR THOUSAND NINE HUNDRED SEVENTY-ONE and 88/100 (\$24,971.88) DOLLARS, as shown by the annexed Statement, which is justly due and owing, and no part of which has been paid except as therein set forth.

6. The statement of account and invoices supporting the liquidated amount of TWENTY TWO THOUSAND NINE HUNDRED TWENTY-FIVE and 00/100 (\$22,925.00) DOLLARS is annexed hereto as Exhibit "D".

8. The disbursements sought to be taxed have been made in this action and will necessarily be made herein.

WHEREFORE, the plaintiffs request the entry of Default and the entry of the annexed Judgment against the defendants, EDDIE SHORE INC. d/b/a BOTNICK PRODUCE,

DOUGLAS BOTNICK and STEPHEN BOTNICK.

Dated: Westbury, New York
July 23 , 2007

LEONARD KREINCES (LK6524)

Sworn to before me this
23rd day of July, 2007.

Notary Public

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

D'ARRIGO BROS. CO. OF NEW YORK, INC.,

Case No.: 07 CV 3604 (LBS/DFE)

Plaintiff,

STATEMENT OF DAMAGES

-against-

EDDIE SHORE INC. d/b/a BOTNICK PRODUCE,
DOUGLAS BOTNICK and STEPHEN BOTNICK,

Defendants.

Principal Amount Sued for \$22,925.00

Interest at 9% from September 9, 2006 through
July 23, 2007 \$ 1,400.00 \$1,856.88

Costs and Disbursements:

Clerk's Fee \$120.00

Process Server fee for service \$50.00

Statutory Fee \$20.00

TOTAL as of July 23, 2007 \$24,971.88

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

D'ARRIGO BROS. CO OF NEW YORK, INC.,

Case No.:07 CV 3604 (LBS/DFE)

Plaintiff,

CLERK'S CERTIFICATE

-against-

EDDIE SHORE INC. d/b/a BOTNICK PRODUCE,
DOUGLAS BOTNICK and STEPHEN BOTNICK,

Defendants.

I, J. MICHAEL McMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on May 7, 2007 with the filing of a Summons and Complaint, and thereafter, the defendants, EDDIE SHORE INC. d/b/a BOTNICK PRODUCE, DOUGLAS BOTNICK and STEPHEN BOTNICK, were served with a copy of the Amended Summons and Amended Complaint on June 22, 2007, and proof of such service thereof was filed with the Court.

If further certify that the docket entries indicate that the defendants, EDDIE SHORE INC. d/b/a BOTNICK PRODUCE, DOUGLAS BOTNICK and STEPHEN BOTNICK, has not filed an Answer or otherwise moved with respect to the complaint herein. The default of the defendants, EDDIE SHORE INC. d/b/a BOTNICK PRODUCE, DOUGLAS BOTNICK and STEPHEN BOTNICK, is hereby noted.

Dated: New York, New York
July _____, 2007

J. MICHAEL McMAHON
Clerk of the Court

By: _____
Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

D'ARRIGO BROS. CO. OF NEW YORK, INC.,

Case No.: 07 CV 3604 (LBS/DFE)

Plaintiff,

-against-

DEFAULT JUDGMENT

EDDIE SHORE INC. d/b/a BOTNICK PRODUCE,
DOUGLAS BOTNICK and STEPHEN BOTNICK,

Defendant.

This action having been commenced on May 7, 2007, by the filing of the Summons and Complaint, and thereafter, a copy of the Summons and Amended Complaint was served on the defendants, EDDIE SHORE INC. d/b/a BOTNICK PRODUCE, DOUGLAS BOTNICK and STEPHEN BOTNICK, and proof of such service having been filed with the Court, and time for the defendants, EDDIE SHORE INC. d/b/a BOTNICK PRODUCE, DOUGLAS BOTNICK and STEPHEN BOTNICK, to answer the Amended Complaint having expired, it is

ORDERED, ADJUDGED AND DECREED: That the plaintiff have judgment against the defendants, EDDIE SHORE INC. d/b/a BOTNICK PRODUCE, DOUGLAS BOTNICK and STEPHEN BOTNICK, in the liquidated amount of TWENTY TWO THOUSAND NINE HUNDRED TWENTY-FIVE and 00/100 (\$22,925.00) DOLLARS, with interest at nine percent (9%) from September 9, 2006 in the amount of ONE THOUSAND EIGHT HUNDRED FIFTY-SIX and 88/100 (\$1,856.88) DOLLARS, plus costs and disbursements of this action in the amount of ONE HUNDRED NINETY and 00/100 (\$190.00) DOLLARS amounting in all to TWENTY FOUR THOUSAND NINE HUNDRED SEVENTY-ONE and 88/100 (\$24,971.88) DOLLARS.

Dated: New York, New York
July ___, 2007

U.S.D.J.

This document was entered on the
docket on _____.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

D'ARRIGO BROS. CO. OF NEW YORK, INC.,

Case No.: 07 CV 3604 (LBS/DFE)

Plaintiff,

AFFIDAVIT OF SERVICE

-against-

EDDIE SHORE INC. d/b/a BOTNICK PRODUCE,
DOUGLAS BOTNICK and STEPHEN BOTNICK,

Defendants.

STATE OF NEW YORK)
COUNTY OF NASSAU) ss:

DONNA MURPHY, being duly sworn, deposes and says:

I am over 18 years of age, not a party to the within action, and reside in Island Trees, New York.

On July 23, 2007, I served the annexed **NOTICE OF MOTION FOR DEFAULT JUDGMENT** upon the parties designated below by mailing same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as set forth herein:

EDDIE SHORE d/b/a BOTNICK PRODUCE
10 Grant Street
So. River, New Jersey 08882

DOUGLAS BOTNICK
10 Grant Street
So. River, New Jersey 08882

STEPHEN BOTNICK
10 Grant Street
So. River, New Jersey 08882

DONNA MURPHY

Sworn to before me this
23rd day of July, 2007.

Notary Public